

# Dutch extradition request for Desi Bouterse fails twice

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reappear in future discussions and proposals, both in the consideration by international and regional organizations.

## II. ILLICIT NARCOTICS TRAFFICKING

### A. Dutch Extradition Request for Desi Bouterse Fails Twice

by André Klip<sup>1</sup>

For the second time within a year the Netherlands requested the extradition of Desi Bouterse on charges of drug trafficking. Bouterse, who is now State Advisor to the president of the Republic of Surinam, came to power in the former Dutch Guyana and established a military junta in 1980. Since the late eighties, it became clear that the military government in Surinam was heavily involved in drugs trading. Etienne Boereveen, second to Bouterse, was then prosecuted and convicted in the United States. In the nineties, Bouterse founded a political party, the National Democratic Party, which won the latest free election. The party was also able to deliver the current Surinam President, Jules Wijdenbosch.

In the summer of 1997, the Dutch Government requested the extradition of Bouterse who was then in Brazil. The Brazilian Government made it clear that it was not willing to arrest the high-ranking politician of a neighboring country. The Netherlands and Brazil do not have a bilateral extradition treaty. References made by the Netherlands to the obligations contained in the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the 1988 Vienna Convention), to which both governments are a party, did not change the attitude of the Brazilians.

The 1998 extradition request to Trinidad, where Bouterse arrived in the week of July 9, 1998, seems to repeat the earlier Brazilian example. The Netherlands and Trinidad are bound by the 1988 Vienna Convention only. The Government of Trinidad refused to take action by referring to the fact that the two countries do not have a bilateral extradition treaty. Article 6, paragraph 3, of the Vienna Convention, does not prevent states from making extradition conditional: "If a Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another party with which it has no extradition treaty, it may consider this Convention as the legal basis for extradition in respect of any offense to which this article applies. (...)"

From a purely legal point of view, Trinidad was entitled to refuse extradition on this ground. However, paragraph 11 of Article 6 of the 1988 Vienna Convention, encourages the parties "to conclude bilateral and multilateral agreements to carry out or to enhance the effectiveness of extradition." There is no evidence that Trinidad was willing to consider a new treaty. This extradition case also shows the entirely different response of two countries that both make extradition conditional on the existence of an extradition treaty. Where the Netherlands have recognized the 1988 Vienna Convention as a sufficient basis for extradition,<sup>1</sup> Trinidad did not make use of this opportunity to further enhance international cooperation. The 1988 Vienna Convention creates a wide range of possibilities for states to cooperate in combatting drug trafficking. Its effectiveness is, however, seriously weakened by the large possibilities to make reservations and the non-binding character of many provisions.

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<sup>1</sup> See amendment to Article 51A, paragraph 2 Extradition Act, English translation published in: BERT SWART AND ANDRÉ KLIP, INTERNATIONAL CRIMINAL LAW IN THE NETHERLANDS, Appendix 1, Translation of Selected Statutes, Freiburg im Breisgau, 1997, at 284.